

Testimony for HB 2723 – Urban Ag Zone Exemption

This bill creates a new type of special assessment for “urban agriculture production” on unimproved land. Under an agreement with a city or county the owner can qualify their land under a zone to be established and receive a special assessment for property tax purposes.

This concept would benefit from additional language that clarifies a number of aspects of tax administration including: how the zone is created and communicated, what the application process is, definitions for terms used, qualification criteria and disqualification criteria.

Zoning:

- Is the zone a land use zone or more akin to a special overlay like an Enterprise Zone?
- How are conflicts with agriculture and allowed uses under the existing land use zoning to be handled?
- Who defines the zone boundaries? Can the county make determinations of boundaries inside city limits as well as in unincorporated areas?
- How is the zone described; such as by tax lot, legal descriptions or maps and boundaries?
- Do zone boundaries need to comply with ORS 308.225?
- Can zone boundaries bisect a lot?
- Who communicates the zone boundary to the county assessor?

Application:

- Is there an application? Who designs it and who approves it?
- When is the application due?
- Under what conditions would the application be denied?
- Can the denial be appealed?
- Is there a late filing period and if so is there a fee for the added processing and roll corrections that would be necessary?
- There should be a provision that requires the agreement to be sent to the county assessor.

Definitions:

- What is an “urban agriculture incentive zone”? Is this anywhere the city or county decides?
- Can the specially assessed area be less than the size of the tax lot? If only part of the lot were unimproved could it still qualify? How would the assessor specially assess a part of a lot? Farmland is typically assessed by the acre yet this bill might assume only an area of square feet. Can a 4’ x 8’ raised bed qualify? Would the rest of the unimproved area of the lot then qualify or just the land under the raised bed?
- What is “small-scale urban agriculture production”? Is this a community garden, a small grove of apple trees, a bee hive, a few goats eating noxious weeds on a lot in downtown Portland, or a compost bin producing worms? Is “production” required?

- What use of the property qualifies? Does a year of preparation qualify the property? Is there a production threshold? Are there any contemplated income tests such as with farming? Can passive agriculture qualify, lying land fallow? Planting but not tending or harvesting?
- On page 1, line 11, what does “manner” mean? Is this property to receive the same tax benefit? Or does it mean the land is to be taxed using the same land class methodology or does “manner” refer to, under the same procedures or at the same tax scheme? If it refers to methodology, what land class would the assessor use?

Qualification criteria:

- What criteria are required for qualification? Just an agreement? It says in the bill that the owner simply agrees to restrict the use to “small-scale urban agriculture production.”
- What level of effort or to what degree of agricultural use is adequate?
- Farmland is specially assessed based on the productivity class of land. If these unimproved areas within this zone are to be specially assessed in the same manner, what productivity class will the assessor use on a raised bed or a lot of noxious weeds being eaten by goats?

Disqualification criteria and process:

- The criteria for disqualification prior to the end of the five year period are unclear because they are not spelled out.
- There is no process for disqualification in the bill.
- Disqualification is essential for any special assessment program because in its absence the fundamentals of the application of the Measure 50 constitutional limitations cannot be applied.

Uniformity:

- It appears that the special assessment could differ from county to county, within a county between cities. How does this affect the requirement that the property tax needs to be uniform?

Rulemaking:

- Too much policy contemplated in administrative rule. There are a lot of policy decisions that need to be made. The assessment and taxation of peoples’ property is something that they have the right to appeal. If the terms are not defined or are left to a state agency then the program opens itself up for litigation by those who have expectations that might be within reason given the ambiguity of the bill.

Subsequent referral?

- There is no subsequent referral to the Revenue Committee that typically deals with this subject area.